

inches, No. 22E standard lug box measures  $8\frac{3}{4} \times 13\frac{1}{2} \times 16\frac{1}{8}$  inches, No. 22G standard lug box measures  $7\frac{3}{8}$  to  $7\frac{1}{2} \times 13\frac{1}{4} \times 15\frac{7}{8}$  inches, No. 32 standard box measures  $5\frac{3}{4}$  to  $7\frac{1}{4} \times 12 \times 19\frac{3}{4}$  inches. All dimensions are given in depth (inside dimensions) by width by length (outside dimensions). "Individual consumer packages" means packages holding 15 pounds or less net weight of nectarines. "Tree ripe" means "tree ripened" and fruit shipped and marked as "tree ripe," "tree ripened," or any similar terms using the words "tree" and "ripe" must meet the minimum California Well Matured standards.

(c) Each container of nectarines in plastic,  $12 \times 19\frac{3}{4}$  inch reusable and recyclable containers shall meet and bear, on the container lid or on the outside end, all applicable marking requirements under the order.

(d) During the period April 1 through October 31, 2000, each container or package when packed with nectarines meeting the "CA Utility" quality requirements, shall bear the words "CA Utility," along with all other required container markings, in letters at least  $\frac{3}{8}$  inch in height on the visible display panel. Consumer bags or packages must also be clearly marked on the consumer bags or packages as "CA Utility," along with other required markings, in letters at least  $\frac{3}{8}$  inch in height.

[50 FR 39074, Sept. 27, 1985, as amended at 54 FR 27860, July 3, 1989; 55 FR 24221, June 15, 1990; 56 FR 40223, 40224, Aug. 14, 1991; 57 FR 20738, May 15, 1992; 57 FR 42682, Sept. 16, 1992; 59 FR 15838, Apr. 5, 1994; 59 FR 31120, June 17, 1994; 60 FR 14894, Mar. 21, 1995; 61 FR 13390, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 31391, June 20, 1996; 62 FR 15360, Apr. 1, 1997; 63 FR 16039, Apr. 1, 1998; 63 FR 44370, Aug. 19, 1998; 64 FR 19031, Apr. 19, 1999; 65 FR 15212, Mar. 22, 2000]

### Subpart—Grade and Size Regulation

#### §916.356 California Nectarine Grade and Size Regulation.

(a) During the period beginning April 1 and ending October 31, no handler shall ship:

(1) Any lot or package or container of any variety of nectarines unless such nectarines meet the requirements of U.S. No. 1 grade: *Provided*, That nec-

tarines 2 inches in diameter or smaller, shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle  $\frac{3}{8}$  inch in diameter, and nectarines larger than 2 inches in diameter shall not have fairly light-colored, fairly smooth scars which exceed an aggregate area of a circle  $\frac{1}{2}$  inch in diameter: *Provided further*, That an additional tolerance of 25 percent shall be permitted for fruit that is not well formed but not badly misshapen: *Provided further*, That all varieties of nectarines which fail to meet the U.S. No. 1 grade only on account of lack of blush or red color due to varietal characteristics shall be considered as meeting the requirements of this subpart: *Provided further*, That during the period April 1 through October 31, 2000, any handler may handle nectarines if such nectarines meet "CA Utility" quality requirements. The term "CA Utility" means that not more than 40 percent of the nectarines in any container meet or exceed the requirements of the U.S. No. 1 grade, except that when more than 30 percent of the nectarines in any container meet or exceed the requirements of U.S. No. 1 grade, the additional 10 percent shall have non-scoreable blemishes as determined when applying the U.S. Standards for Grades of Nectarines; and that such nectarines are mature and are:

(i) Free from insect injury which has penetrated or damaged the flesh; split pits which cause an unhealed crack or one or more well healed cracks which, either singly or in the aggregate, are more than  $\frac{3}{8}$  inch in length; mold, brown rot, and decay which has affected the edible portion; and

(ii) Free from serious damage due to skin breaks, cuts, growth cracks, bruises, or other causes. Damage to any nectarine is serious when it causes a waste of 10 percent or more, by volume, of the individual nectarine.

(iii) *Tolerances*. Not more than 10 percent, by count, of the nectarines in any one container may be below the requirements which are prescribed by this paragraph, including not more than 5 percent, by count, for any one defect, except split pits. An additional tolerance of 10 percent, by count, of the nectarines in any one container or bulk lot may contain nectarines affected

with split pits. This means a total tolerance of 20 percent is allowed for all defects, including split pits, but not to exceed 15 percent for split pits alone.

(iv) The Federal or Federal-State Inspection Service shall make final determinations on maturity through the use of color guides or such other tests as determined appropriate by the inspection agency. The Federal or Federal-State Inspection Service will use the maturity guides listed in table 1 to paragraph (a)(1)(iv) in making maturity determinations for the specified varieties when inspecting to the “well matured” level of maturity. For these varieties, not less than 90 percent of any lot shall meet the color guide established for the variety, and an aggregate area of not less than 90 percent of the fruit surface shall meet the color guide established for the variety, except that for the Tom Grand variety of nectarines, not less than an aggregate area of 80 percent of the fruit surface shall meet the color guide established for the variety. For varieties not listed, the Federal or Federal-State Inspection Service will use such tests as it deems proper. A variance for any variety from the application of the maturity guides specified in table 1 to paragraph (a)(1)(iv) may be granted during the season to reflect changes in crop, weather, or other conditions that would make the specified guides an inappropriate measure of “well matured.”

TABLE 1

Column A variety	Column B maturity guide
Alshir Red .....	J
April Glo .....	H
August Glo .....	L
August Lion .....	J
August Red .....	J
Aurelio Grand .....	F
Autumn Delight .....	L
Autumn Grand .....	L
Big Jim .....	J
Diamond Jewel .....	L
Diamond Ray .....	L
Earliglo .....	I
Early Diamond .....	J
Early May .....	F
Early May Grand .....	H
Early Red Jim .....	J
Early Sungrand .....	H
Fairlane .....	L
Fantasia .....	J
Firebrite .....	H
Flamekist .....	L

TABLE 1—Continued

Column A variety	Column B maturity guide
Flaming Red .....	K
Flavortop .....	J
Grand Diamond .....	L
Independence .....	H
July Red .....	L
June Brite .....	I
Juneglo .....	H
Kay Diamond .....	L
King Jim .....	L
Kism Grand .....	J
Late Le Grand .....	L
Late Red Jim .....	J
May Diamond .....	I
May Fire .....	H
Mayglo .....	H
May Grand .....	H
May Jim .....	I
May Kist .....	H
May Lion .....	J
Mid Glo .....	L
Moon Grand .....	L
Niagara Grand .....	H
P-R Red .....	L
Red Diamond .....	L
Red Delight .....	I
Red Fred .....	J
Red Free .....	L
Red Glen .....	J
Red Glo .....	I
Red Grand .....	H
Red Jim .....	L
Red May .....	J
Rio Red .....	L
Rose Diamond .....	J
Royal Delight .....	F
Royal Giant .....	I
Royal Glo .....	I
Ruby Diamond .....	L
Ruby Grand .....	J
Ruby Sun .....	J
Scarlet Red .....	K
September Grand .....	L
September Red .....	L
Sheri Red .....	J
Sparkling June .....	L
Sparkling May .....	J
Sparkling Red .....	L
Spring Bright .....	L
Spring Diamond .....	L
Spring Red .....	H
Star Brite .....	J
Summer Beaut .....	H
Summer Blush .....	J
Summer Bright .....	J
Summer Diamond .....	L
Summer Fire .....	L
Summer Grand .....	L
Summer Lion .....	L
Summer Red .....	L
Sunburst .....	J
Sun Diamond .....	I
Sun Grand .....	G
Super Star .....	G
Tom Grand .....	L
Zee Glo .....	J
Zee Grand .....	I

NOTE: Consult with the Federal or Federal-State Inspection Service Supervisor for the maturity guides applicable to the varieties not listed above.

(v) If a grower or handler believes his/her fruit is meeting the appropriate maturity level but the fruit has not been so graded by the inspector, he/she may appeal the inspection by calling the officer-in-charge of the local Federal-State Inspection Service office to arrange for an on-site examination of the fruit.

(2) Any package or container of Mayglo variety nectarines through May 5 of each year; or April Glo, or Mayfire variety nectarines, unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 108 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(2)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 100 nectarines.

(3) Any package or container of Mayglo variety of nectarines on or after May 6 of each year, or Earliglo, Early Diamond, Grand Sun, Johnny's Delight, May Jim, or May Kist variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(3)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(4) Any package or container of Arctic Glo, Arctic Rose, Arctic Star, Diamond Bright, Diamond Jewel, Juneglo, June Pearl, Kay Glo, Kay Sweet, May Diamond, May Grand, May Lion, Prima Diamond IV, Prima Diamond 13, Prince Jim, Red Delight, Red Glo, Rose Diamond, Royal Glo, Sparkling May, Star Brite, White Sun, or Zee Grand variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D

standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(4)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 83 nectarines.

(5) Any package or container of Red May variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 84 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(5)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 78 nectarines.

(6) Any package or container of Alshir Red, Alta Red, Arctic Blaze, Arctic Gold, Arctic Jay, Arctic Pride, Arctic Queen, Arctic Snow (White Jewel), Arctic Sweet, August Glo, August Lion, August Red, August Snow, Autumn Delight, Big Jim, Brite Pearl, Cole Red, Crystal Rose, Diamond Ray, Early Red Jim, Fairlane, Fantasia, Firebrite, Fire Pearl, Fire Sweet, Flame Glo, Flaming Red, Grand Diamond, Grand Pearl, Honey Blaze, Honey Kist, July Red, Kay Bright, Kay Diamond, King Jim, Late Red Jim, Mid Glo, Niagara Grand, P-R Red, Prima Diamond IX, Prima Diamond XVI, Prima Diamond XVIII, Prima Diamond XIX, Prima Diamond XXIV, Red Diamond, Red Glen, Red Jim, Regal Pearl, Rio Red, Royal Giant, Ruby Diamond, Ruby Pearl, Ruby Sweet, Scarlet Red, September Red, Sparkling June, Sparkling Red, Spring Bright, Spring Diamond, Spring Red, Summer Beaut, Summer Blush, Summer Bright, Summer Diamond, Summer Fire, Summer Grand, Summer Lion, Summer Red, Sunburst, Sun Diamond, Sunny Red, Super Star, Terra White, White September, or Zee Glo variety nectarines unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 80 nectarines in the box, or if the nectarines are "well matured," not more than 84 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(6)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 67 nectarines or if the nectarines are "well matured" not more than 75 nectarines.

(7) During the period April 1 through May 31 of each fiscal year, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 96 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(7)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 90 nectarines.

(8) During the period June 1 through June 30 of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 88 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(8)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or

container, contains not more than 83 nectarines.

(9) During the period July 1 through October 31 of each fiscal period, no handler shall handle any package or container of any variety of nectarines not specifically named in paragraphs (a)(2), (a)(3), (a)(4), (a)(5), or (a)(6) of this section unless:

(i) Such nectarines, when packed in molded forms (tray packs) in a No. 22D standard lug box or a No. 32 standard box, are of a size that will pack, in accordance with the requirements of a standard pack, not more than 80 nectarines in the box or, if the nectarines are "well matured," not more than 84 nectarines in the box; or

(ii) Such nectarines, when packed other than as specified in paragraph (a)(9)(i) of this section, are of a size that a 16-pound sample, representative of the nectarines in the package or container, contains not more than 67 nectarines or if the nectarines are "well matured" not more than 75 nectarines.

(b) The following procedure shall be used in determining whether nectarines meet the minimum size requirements specified for each size category in this section applying a 16-pound sample. A sample consisting of one-half of the number of fruit specified for a 16-pound sample for a particular size category shall be used, provided such sample weighs at least eight pounds. When one-half the specified number of fruit in a sample results in a number ending with one-half a fruit, the smaller full number of fruit shall be used to determine the sample weight. If a sample fails with respect to minimum size requirements on the basis of an 8-pound sample, a 16-pound sample shall be used to determine if the fruit meets the minimum size requirements.

(c) *Container tolerances.* The contents of individual packages in the lot are subject to the following limitations, provided the averages for the entire lot are within the tolerances specified in this part:

(1) For packages which contain more than 10 pounds, and a tolerance of 10 percent or more is provided, individual packages shall have not more than one

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and one-half times the tolerance specified. For packages which contain more than 10 pounds and a tolerance of less than 10 percent is provided, individual packages shall have not more than double the tolerance specified.

(2) For packages which contain 10 pounds or less, individual packages are not restricted as to the percentages of defects.

(d) As used herein, *U.S. No. 1, mature*, and *standard pack*, mean the same as defined in the United States Standards for Grades of Nectarines [7 CFR 51.3145 through 51.3160]; and *No. 22D standard lug box* means the same as defined in section 1380.19 (17) of the "Regulations of the California Department of Food and Agriculture". *Well matured* means a condition distinctly more advanced than *mature*.

[59 FR 15838, Apr. 5, 1994, as amended at 60 FR 14894, Mar. 21, 1995; 60 FR 30997, June 12, 1995; 61 FR 13391, Mar. 27, 1996; 61 FR 19164, May 1, 1996; 61 FR 26073, May 24, 1996; 61 FR 31006, June 19, 1996; 61 FR 31391, June 20, 1996; 62 FR 15360, Apr. 1, 1997; 62 FR 50859, Sept. 29, 1997; 63 FR 16039, Apr. 1, 1998; 63 FR 44370, Aug. 19, 1998; 63 FR 50464, Sept. 22, 1998; 64 FR 19031, Apr. 19, 1999; 65 FR 15212, Mar. 22, 2000; 65 FR 39513, June 27, 2000]

### PART 917—FRESH PEARS AND PEACHES GROWN IN CALIFORNIA

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